

Notice of Allowability

Application No.

09/924,265

Examiner

Jeffrey G. Hoekstra

Applicant(s)

HU ET AL.

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 02/13/2009.
2. ☒ The allowed claim(s) is/are 42,43,45-52 and 54-57.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 5/7/09
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736

DETAILED ACTION

Notice of Amendment

1. In response to the amendment filed on 02/13/2009, amended claim(s) 19, 42, and 45 is/are acknowledged. The current rejections of the claim(s) is/are *withdrawn*. The following is/ are set forth:

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter Berger on 5/7/09.

The application has been amended as follows:

Claims 1-31 should read: (Cancelled).

Claim 42 lines 15-20 should read:

"predetermined ranges,[and]

wherein said computer processor is programmed with a predetermined maximum value of a plurality of faults and is further programmed to continue to collect data notwithstanding detection of a fault until after **[a recording of a predetermined number] determining said predetermined maximum value of [a] said** plurality of

faults and is programmed to stop the collection of data after receiving an indication that the data collected is reliable, and"

Allowable Subject Matter

3. Claims 42, 43, 45-52 and 54-57 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose, teach, and/or fairly suggest a system, comprising *inter alia*: a means for presenting a series of sensory stimuli for perception by a patient, a means for detecting electrical signals representative of the patient's evoked brain potentials in response to said sensory stimuli, comprising a plurality of scalp electrodes with at least one of the electrodes configured to be placed over a visual cortex, and a computer processor that is programmed to analyze and compare data to predetermined values to determine if the data is unreliable and is programmed with a predetermined maximum value of plurality of faults, wherein the computer stops data collection after a predetermined maximum value of a plurality of faults have been determined.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey G. Hoekstra whose telephone number is (571)272-7232. The examiner can normally be reached on Monday through Friday 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*/Jeffrey G Hoekstra/
Examiner, Art Unit 3736*

*/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736*